IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 926 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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DHARAMSHIHBHAI BHIKHABHAI HARIHAN (CHAUHAN)

Versus

SUB-DIVISIONAL MAGISTRATE

Appearance:

1. Special Criminal Application No. 926 of 2000

MR MAHENDRA K PATEL for Petitioner

MR HL JANI, Learned APP for Respondents

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 27/07/2001

ORAL JUDGEMENT

1. Heard Mr.Mahendra K. Patel, learned advocate for the petitioner and Mr.H.L.Jani, learned APP for the respondents.

2. In the present petition, initially, the order of externment has been passed on 7/9/95 by the Sub-Divisional Magistrate, Mahuva in Externment Case No.38 of 1995. Thereafter, the petitioner has preferred an appeal before the Appellate Authority against the order of externment passed on 7/9/95 in Externment Case No.38 of 1995 by the Sub-Divisional Magistrate, Mahuva. The Appellate Authority has set aside the order of externment with a direction to remand the matter back to the Sub-Divisional Magistrate, Mahuva and to decide afresh in accordance with law. Thereafter, the Sub-Divisional Magistrate, Mahuva has passed the fresh order on 16/6/97, whereby it was directed that the petitioner should furnish a personal bond of Rs.10,000/with two solvent sureties of the village Hamirpara for the period of 2 years. Against the said order, the petitioner has preferred an appeal before the Appellate Authority and the same was rejected on 16/2/2000 by the appellate authority.

3. In view of the aforesaid facts, Mr.H.L.Jani, learned APP for the respondents has submitted that the period of 2 years to extern the petitioner from the date of the order dated 16/6/97 is already over and, therefore, the present petition has become infructuous.

4. Mr.Mahendra K. Patel, learned advocate for the petitioner has also not disputed the said submission of Mr.Jani, learned APP for the respondents. Therefore, in view of this fact, according to my opinion, the period of 2 years to extern the petitioner is already over and, therefore, this petition has become infructuous and, therefore, without deciding the legality and validity of the order and without adjudicating the order on merits, the petition is required to be disposed of as having become infructuous.

5. For the aforesaid reasons, the present petition is disposed of as having become infructuous. Rule is discharged.

(H. K. Rathod,J.)
(vrpanchal)**